

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



**CORRECTED
FISCAL NOTE**

SB 2874 - HB 3761

March 19, 2010

SUMMARY OF BILL: Requires the Division of Intellectual Disabilities Services (DIDS) to provide written notice of its intent to propose legislation to permit immediate or gradual closure of any state-owned or -operated facility that provides residential services to persons with mental retardation or other developmental disabilities to the House Health and Human Resources Committee and the Senate General Welfare, Health, and Human Resources Committee 60 days prior to the legislative session. The same notice must be sent by registered mail to each resident and the resident's immediate family or guardian. Prohibits DIDS from closing a state-owned or -operated facility without legislative action for that purpose or a specific line item appropriation in the appropriations act.

In the event of a health or safety emergency or a federal action requiring or necessitating the immediate or gradual closure of a facility, DIDS may seek relief from the provisions of the bill in the chancery court of the county in which the facility is located if DIDS has provided written notice to the residents and the residents' immediate family or guardians at least 10 days prior to filing a petition with the court. All interested parties with standing to act on behalf of a resident shall have standing in the court proceedings regarding the closure of the facility. Any interested parties with standing to act on behalf of a resident who chooses to challenge the actions or decisions of DIDS regarding the notice requirements or closure of a facility will have a cause of action in the chancery court of the county in which the facility is located or in the Davidson County Chancery Court. An interested party may seek compensatory damages and attorney fees, but punitive damages are not allowable.

DIDS is subject to the notice requirements for any facility in which the Division has announced plans to close prior to July 1, 2010, other than a facility closing pursuant to federal court order or settlement. Notice must be given by July 11, 2010, and all proceedings towards closure shall be delayed until all proceedings for all hearings permitted under the provisions of the bill have been completed.

ESTIMATED FISCAL IMPACT:

On March 4, 2010, we issued a fiscal note reflecting an *Other Fiscal Impact - The proposed FY10-11 budget includes a reduction in recurring state funds of \$7,718,600 for the downsizing of the Clover Bottom Developmental Center. The proposed FY10-11 budget also includes a restoration of \$3,859,300 in non-recurring funds for six months of services to the individuals being transferred to other services. Any delay in the downsizing beyond the six month transitional period will result in an increase in state funds for DIDS to continue to provide services at the current level.* After further analysis, it was determined that the stated budgeted

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amounts are incorrect and the fiscal impact has been changed to reflect the correct amounts. The fiscal impact of this bill is as follows:

(CORRECTED)

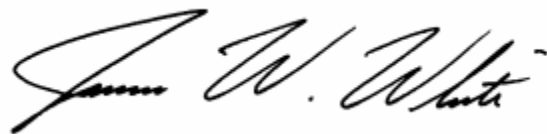
Other Fiscal Impact – The proposed FY10-11 budget includes a reduction in recurring state funds of \$8,027,000 for the downsizing of the Clover Bottom Developmental Center. The proposed FY10-11 budget also includes a restoration of \$4,013,500 in non-recurring funds for six months of services to the individuals being transferred to other services. Any delay in the downsizing beyond the six month transitional period will result in an increase in state funds for DIDS to continue to provide services at the current level.

Assumptions:

- The proposed legislation would delay the closure of a state facility operated by DIDS
- The Division is currently planning to downsize and eventually close the Clover Bottom Developmental Center.
- The FY10-11 proposed budget includes a recurring reduction of \$8,027,000 in state funds to downsize the Clover Bottom Facility to 32 residents. Of this reduction, \$4,013,500 is proposed to be restored with non-recurring funds in FY10-11 for six months of funding for 76 residents to transition to private ICF/MR facilities or to the home- and community-based waiver program. The proposed net reduction will be \$4,013,500 in FY10-11.
- Delaying the downsizing and closure of the Clover Bottom Facility beyond the six month transitional period will result in additional state funds to continue the services at the current level until the downsizing and closure might take effect.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



James W. White, Executive Director

/kml